

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| In re Application of: Nicolas Goujon, Johan F. Naes, Rune Voldsbekk | Confirmation: 4412 |
| Serial No.: 10/529,186 | Examiner: Ian Lobo |
| Filed: May 1, 2007 | Atty. Dkt. No.: 2088.001100 |
| For: MULTI-PART SEISMIC CABLE | Client Docket: 14.210 PCT US |
| | Art Unit: 3662 |

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

Sir:

Applicants request review of the “final” rejection in the above-identified application. No amendments are being filed with this request. This request is, however, being filed concurrently with a Notice of Appeal. The review is requested for the reason(s) stated on the attached sheet(s). It is believed no fee is due; however, should any fees under 37 C.F.R. §§1.16 to 1.21 be required for any reason, the Director is authorized to deduct said fees from Williams, Morgan & Amerson, P.C. Deposit Account No. 50-0786/2063.011397/JAP.

I. STATUS OF THE CLAIMS

Claims 1-10, 13-20, 24, and 29-35 are pending in the case, claims 11-12, 21-23, and 25-28 having previously been canceled.

The Office Action rejected each of claims 1-17, 19-32, and 34 as follows:

- claims 1-10, 13-14, 16-17, 24, 29, 30 and 32 as being anticipated under 35 U.S.C. §102(a) and/or (e) by U.S. Letters Patent 6,477,111 (“Lunde”); and

claims 1, 19-20, 29 and 34 as being anticipated under 35 U.S.C. §102(b) by U.S. Letters Patent 4,398,276 (“Kuppenback”).

The Office objected to claims 15, 31, and 33 as allowable but for their dependence from rejected base claims. Applicants appeals from each of the rejections. The claims in this appeal, therefore, are claims 1-10, 13-14, 16-20, 24, and 29-30, 32, and 34-35.

II. INDEPENDENT CLAIMS IN ISSUE

There are two independent claims in issue, 1 and 29, which are reproduced below.

1. A seismic cable, comprising:
 - a tension support cable capable of absorbing tension during deployment of the seismic cable;
 - a signal cable attached to a plurality of first points spaced along the length of the support cable at a plurality of second points spaced along the length of the signal cable to mechanically decouple the signal cable from the tension support cable; and
 - at least one sensor module disposed on the signal cable proximate at least one third point, said at least one third point being different than the plurality of second points.

29. A method for assembling a seismic cable, comprising attaching a plurality of first points spaced along the length of a tension support cable capable of absorbing tension during deployment of the seismic cable to a signal cable at a plurality of second ~~first~~ points spaced along the length thereof, the signal cable having at least one sensor module disposed thereon, the plurality of first points differing from at least one third point of attachment for at least one sensor module, to mechanically decouple the signal cable from the tension support cable.

III. CLAIMS 1-10, 13-14, 16-20, 24, AND 29-30, 32, & 34-35 ARE ALLOWABLE OVER THE ART OF RECORD

There are two sets of rejections, and both sets are for anticipation. An anticipating reference, by definition, must disclose every limitation of the rejected claim in the same

relationship to one another as set forth in the claim. M.P.E.P. § 2131; *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990). Applicants respectfully submit that, when the references and claims are properly construed, neither of the references meets this standard.

A. CLAIMS 1-10, 13-14, 16-17, 24, 29, 30 & 32 ARE NOVEL OVER LUNDE

The Office rejected claims 1-17, 19-32, and 34 as anticipated under 35 U.S.C. §102(a) and/or (e) by U.S. Letters Patent 6,477,111 (“Lunde”). As Applicants previously pointed out, claims 1 and 29 recite that the attachments along the two cables are at a plurality of points such that the signal cable is “mechanically decoupled” from the tension support cable. Lunde, on the other, attaches the two cables throughout their length such that they are not mechanically decoupled. Claims 1-10, 13-14, 16-17, 24, 29, 30 and 32 are therefore novel over Lunde.

The Office disputes this construction of Lunde. In particular, the Office states that “...the buoyancy pill (3bc) has openings on either side that would *inherently* allow one to mechanically decouple the signal cable (36) from the support cable (32).” (Office Action dated January 15, 2009, p. 4, emphasis added) But Lunde fails to meet the standard for inherency.

Inherency in anticipation requires that the asserted proposition *necessarily* flow from the disclosure. *In re Oelrich*, 212 U.S.P.Q. (BNA) 323, 326 (C.C.P.A. 1981); *Ex parte Skinner*, 2 U.S.P.Q.2d (BNA) 1788, 1789 (Bd. Pat. App. & Int. 1987). “Inherency... may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient.” *Skinner*, 2 U.S.P.Q.2d (BNA) at 1789.

The buoyancy pills 38 would not inherently permit mechanical decoupling because such a consequence does not necessarily flow from the disclosure. Applicants presume that the “openings” to which the Office refers are the unreferenced gaps between the buoyancy pills 38 in, for example, Fig. 2 and Fig. 8. Note, however, that these drawings show that the signal and support cables are in almost constant contact, and therefore are mechanically coupled. This, then, immediately refutes the notion that the mechanical decoupling from these “openings” necessarily flows from the teaching.

The specification also refutes the “inherency” posited by the Office. For example, at one point, Lunde states:

Additionally, a plurality of buoyancy elements (or "pills") 38, made of skinned polypropylene foam, are moulded into the

core 24 between the hydrophone assemblies 30 and the electronics modules 34. The number and density of the buoyancy pills 38 are selected such that their buoyancy effect, combined with that of the kerosene or other fluid in the foam material in the annular gap 28, renders the streamer section 10a substantially neutrally buoyant in water: typically, the density of the buoyancy pills 38 is about 0.6.

(col. 4, lines 27-36) Thus, depending on the buoyancy needs of the individual embodiment, the buoyancy pills 38 conceivably cover the entire length of the both the support cable and the signal cable.

The buoyancy pills of Lunde therefore do not inherently permit mechanical decoupling, as is evident from Fig. 2 and Fig. 8 thereof—which actually shows a complete lack of mechanical decoupling—and the disclosure at col. 4, lines 27-36—which clearly contemplates a lack of mechanical decoupling. *Oelrich*, 212 U.S.P.Q. at 326. Lunde therefore does not teach all the limitations of the claims and, consequently, does not anticipate any of claims 1-10, 13-20, 24, and 29-35. M.P.E.P. § 2131; *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990).

B. CLAIMS 1, 19-20, 29 & 34 ARE NOVEL OVER KUPPENBACK

The Office rejected claims 1, 19-20, 29 and 34 as being anticipated under 35 U.S.C. §102(b) by U.S. Letters Patent 4,398,276 (“Kuppenback”). Each of the independent claims 1, and 29 recites that the “tension support cable” is “capable of absorbing tension during deployment of the seismic cable”. Each of the dependent claims 19-20 and 34 incorporate this limitation from the respective independent claim from which they depend. 35 U.S.C. §112, ¶4. Kuppenback does not teach or suggest a “tension support cable” that is “capable of absorbing tension during deployment of the seismic cable” as each of the independent claims 1 and 29 now recite. The alleged support cable of Kuppenback (*i.e.*, line 30) does not operate during retrieval. Kuppenback’s line operates in that capacity only during retrieval.

Applicants note that the Office has not alleged that Kuppenback’s line meets the stated limitation. “[I]t is incumbent upon the examiner to identify wherein each and every facet of the claimed invention is disclosed in the applied reference.” *Ex parte Levy*, 17 U.S.P.Q.2d (BNA) 1461, 1462 (Pat. & Tm. Off. Bd. Pat. App. & Int. 1990). The Office apparently believes that this burden does not apply to this limitation because “...it is irrelevant whether the cable 30 operates only during retrieval since this has no bearing on the specific claim limitations.” (Office Action

dated January 15, 2009, p. 4) However, Applicants records show that the subject limitation quoted above was introduced by amendment in the paper entitled “Response to Office Action Dated March 6, 2008”, filed June 30, 2008.

Accordingly, each of the claims does in fact either recite or incorporate the limitation that the “tension support cable” is “capable of absorbing tension during deployment of the seismic cable”. Kuppenback fails to disclose this limitation. Kuppenback therefore fails to anticipate any of claims 1, 19-20, 29 and 34. M.P.E.P. § 2131; *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990).

IV. CONCLUDING REMARKS

Applicants respectfully submit that all claims are in condition for allowance and pray that the rejections be REVERSED.

The Examiner is invited to contact the undersigned attorney at (713) 934-4053 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,

Date: July 14, 2009

WILLIAMS, MORGAN & AMERSON
10333 Richmond Dr., Suite 1100
Houston, Texas 77042
(713) 934-7000

/Jeffrey A. Pyle/
Jeffrey A. Pyle
Reg. No. 34,904
Attorney for Applicants